

Notice of a Compulsory Conference

Case number: <case number>
Applicant: <Applicant's name>
Respondent: <Respondent's name>

The Tribunal will be conducting a compulsory conference in this proceeding.

You are required to attend at the compulsory conference.

You must attend personally at the compulsory conference, even if you have been granted leave to be represented by someone else.

The details of the compulsory conference are as follows:

Date: <date of compulsory conference>
Time: <time compulsory conference commences>
Venue: <venue address where compulsory conference will be held>

Important Notes:

1. Please read the attached information about compulsory conferences before attending the compulsory conference.
2. The conference must be held in private unless the person presiding over the conference directs otherwise.
3. Witnesses are not required to attend. However, if a party needs to take advice from someone else during the conference, that other person should be contactable by telephone during the time set for the compulsory conference.
4. **If a party does not attend at the compulsory conference, the conference may proceed in their absence. The person presiding over the conference may make a decision against the interests of the party who does not attend, including:**
 - a. a decision which finally decides all matters the subject of the proceeding;
 - b. a decision that the absent party be removed from the proceeding; or
 - c. a decision that the absent party pay costs.
5. If you wish to apply for permission to attend the compulsory conference by telephone or video (where available), please complete the form 'Application for hearing by remote conferencing, compulsory conferencing or mediation' and send it to the Tribunal at least five (5) days before the conference.

If you have any enquiries please contact the case manager mentioned below on <number provided>.

Delegate for Principal Registrar
Queensland Civil and Administrative Tribunal
Date: <date>

AN OVERVIEW OF COMPULSORY CONFERENCES

WHAT IS A COMPULSORY CONFERENCE?

1. A compulsory conference is a meeting chaired by a member or adjudicator of the Tribunal. The purpose of a compulsory conference is to:
 - a. Identify and clarify the issues in dispute;
 - b. Promote a settlement of the dispute;
 - c. Identify the questions of fact and law to be decided by the Tribunal;
 - d. If the dispute cannot be settled, to make orders and give directions about the conduct of the proceedings;
 - e. To make orders and give directions that the member or adjudicator considers appropriate to resolve the dispute.
2. Even though the compulsory conference is conducted by the Tribunal, and the issues in dispute will be shadowed by the legal framework within which the dispute fits, a compulsory conference is not primarily a legal process.

PREPARING FOR A COMPULSORY CONFERENCE

3. The Tribunal may have discussions with the parties ahead of the compulsory conference to ensure that various formalities and other issues are addressed so that time is not wasted at the compulsory conference.
4. The parties themselves must attend the compulsory conference. In the case of a party which is a company or association, its representative will need to have authority to reach a binding settlement at the compulsory conference.
5. Think carefully about whether there are other people who should attend the compulsory conference.
 - a. It may be a good idea to bring your experts who can help you make decisions. Sometimes, parties are given new information in compulsory conferences which affect the way an expert thinks about an issue. If experts are able to talk to each other before the proceedings, they can often agree about the issues or agree about the way that their disagreement will be represented to the Tribunal at the hearing.
 - b. Do you have authority to negotiate the dispute to a conclusion and sign a document that records the agreement? If not, there is a risk that an agreement reached will be overturned by a party who, not being present through the negotiations, does not properly appreciate the background to the agreement, the effort that was required to reach it, and the significant concessions that may have been made by the parties at the time.
 - c. Do you want to bring a lawyer? If so, you will need to apply to the Tribunal for leave to be represented by a lawyer.
6. Conduct a risk analysis of your case before attending the compulsory conference. Ask yourself these questions (and answer them honestly):
 - a. What are the strengths of my case?

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- b. What are the weaknesses of my case?
 - c. What will be the consequences for me if this is not resolved at compulsory conference?
 - d. What costs (legal fees and payments to experts or other advisors) have I incurred to date? What non-legal costs (e.g. time taken off work) have I incurred to date?
 - e. If I do not reach agreement at compulsory conference, what costs will I incur in future? What non-legal costs will I also incur?
 - f. What are my needs? What do I want? (This may not be the same thing as set out in the material you have filed with the Tribunal.) What do I need to achieve?
 - g. In light of my needs, reflecting on the weaknesses in my case and the cost implications, what would be an outcome at compulsory conference, with which I could live?
7. Prepare an opening statement. This is not an address to a Judge. It is not necessary to tell the meeting what the law is, or what the evidence will be. The purpose of an opening statement is to tell the parties what the real issues are. The following questions might assist you to prepare the opening presentation at the compulsory conference:
- a. What do you really need to achieve from today?
 - b. What do you need to **do** today to achieve this?
 - c. What do you need to **say** to the other party to help to achieve this?
 - d. What do you need to hear from the other party which would help you achieve this?
 - e. What are your main concerns?
 - f. What do you think are the other party's main concerns?
 - g. What do you think that each other party really needs out of this?
 - h. What do you think the other party needs to hear from you which will help to move you on to a realistic outcome for all concerned?
8. Don't plan other engagements for the time allocated for compulsory conference. Successful compulsory conferences depend upon the parties having enough time to consider a range of issues and alternatives. Even with the member or adjudicator's best efforts, parties are often reluctant to get to the reality of a negotiated result until quite late in the process. If a party has made prior commitments elsewhere, it may be that negotiations will conclude artificially and when the parties are on the cusp of an agreement. It is sometimes difficult to recreate that atmosphere in a reconvened compulsory conference.

AT THE CONFERENCE

9. The member or adjudicator will greet the parties on arrival and normally open the compulsory conference with a joint session, attended by all parties. The member or adjudicator will provide an overview of the

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process, the role of the member or adjudicator and what is likely to happen for the balance of the conference.

10. All discussions at a compulsory conference are treated as confidential and “without prejudice”. What is said or written at a conference cannot be used in later proceedings if the dispute does not settle unless the parties otherwise agree.
11. During the compulsory conference, the member or adjudicator may meet privately with each party to discuss the problem confidentially. Parties should not be alarmed by this. Whatever occurs in the private meeting is subject to the same rules of confidentiality as the full compulsory conference. It gives parties the opportunity to tell the member or adjudicator something about the dispute that they may not want communicated to the other side but will have an effect on the resolution of the dispute. If the member or adjudicator understands why a party holds a certain position, it may make resolution of the dispute easier. It also allows a party to have a realistic look at their case in private, without fear that any weaknesses discussed will be communicated to other parties.
12. Sometimes, the member or adjudicator will spend more time with one party than another. Again, parties should not be alarmed. It is not an indication of preference, or bias, on the part of the member or adjudicator. It is an indication that the member or adjudicator thinks that a particular party may need more assistance in negotiating, formulating an alternative, understanding a point about the dispute, or (on a more positive note) that a particular party might be in a position to generate more ideas for consideration by the others, or is more flexible in its approach.
13. If you are left on your own, use that time effectively. Take the time to reflect:
 - a. What has been achieved so far?
 - b. What are the areas of common ground which have emerged?
 - c. What have you learned that has surprised you?
 - d. What new areas for discussion have emerged?
 - e. What do you not understand?
 - f. What areas need further exploration at this stage?
 - g. What are the options which are emerging?
 - h. What do you really want to achieve now? What is your main priority?
 - i. What can you do now, in this process, to help to reach a solution?
14. The member or adjudicator is not an advisor to any of the parties. The member or adjudicator remains impartial throughout the process. The member or adjudicator’s neutrality provides credibility in the process. It is not the member or adjudicator’s role to tell the parties what their rights are or how they should resolve the dispute but a member or adjudicator might tell the parties, in private session what that member or adjudicator would decide if the dispute went to a hearing. You can object to the member or adjudicator chairing the compulsory conference being involved in the hearing of the dispute.
15. If the compulsory conference results in an agreement between the parties, whether that is an agreement to resolve the dispute or an agreement about the way the dispute will proceed, the member or adjudicator will

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produce a written record of that agreement. All parties to the agreement, and the member or adjudicator, will sign the agreement and it will be placed on the Tribunal file.

16. If the compulsory conference does not result in an agreement, the member or adjudicator will make directions or orders aimed at reducing the issues to be determined at the hearing. For example, the parties may be directed to:
- a. File further material within a short time frame.
 - b. Provide a list of disputed issues.
 - c. Obtain a joint expert's report.
 - d. Provide written submissions prior to the hearing.

The member or adjudicator may also order a joint experts' conference, that other parties attend a conference, that the conference be reconvened at a later date, or that the proceedings are listed for a review by the President or Deputy President. Although you may have input into these directions, the member or adjudicator can make these directions without the parties' consent.

BENEFITS OF A COMPULSORY CONFERENCE

17. Compulsory conferences provide a private forum, in which the parties can gain a better understanding of each other's positions, and work together to explore options for resolution. You can gain a thorough understanding of the other party's points of view, and have an enhanced opportunity to be heard and understood during the process. Compulsory conference allows misconceptions to be eliminated. In particular, as it is sometimes difficult for parties to be objective about the strengths and weaknesses of their case, the member or adjudicator can test each party's understanding of those strengths and weaknesses, as well as the potential for loss, expense, time, distraction and uncertain court outcomes.
18. Compulsory conferences provide a much greater scope of creativity with possible options, than does a Tribunal hearing. Although settlements reached in compulsory conference cannot be illegal, the scope of settlement is otherwise limited only by the parties' creativity.
19. The parties have control over the outcome. Self-determination is a fundamental principle of a compulsory conference. The process relies on the ability of the parties to reach a voluntary and un-coerced agreement.
20. Since over 90% of cases are settled before hearing, much of the time, energy and cost in bringing or defending proceedings is wasted. Compulsory conferences occur before a dispute escalates too far through the hearing process.
21. Compulsory conferences can address all parties' interests and can preserve a working relationship between them. Compulsory conferences can also make the termination of a relationship more amicable.

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